

**Landfill Tax (Scotland) Bill**  
Finance Committee  
Stage 1 Report  
Scottish Government Response  
October 2013

The Scottish Government welcomes the Finance Committee's Stage 1 report on the Landfill Tax (Scotland) Bill. The Scottish Government has considered the Committee's recommendations and responds to each point as follows;

No.	Recommendation	Response
<b>Tax Rates</b>		
1.	<p>The Committee notes the concerns of witnesses regarding the desire for greater certainty in relation to the setting of future tax rates and invites the Government to clarify the reasons why there is a need to wait until around September 2014 to set future rates.</p> <p><b>Paragraph 21</b></p>	<p>The Scottish Government will consider the evidence provided to the Committee regarding the desire for greater certainty in relation to the setting of future tax rates. The setting of tax rates and bands will form a key component of the Scottish budget process from 2015-16, as the forecast revenue generated from the devolved taxes will be one determinant of the overall financial resources available to the Scottish Government in the fiscal year in question. It is important that decisions on rates and bands are taken as part of the wider budget process so that the impact on revenues can be appropriately considered. The Scottish Government looks forward to imminent discussions with the Committee on the changes which will be required to the Scottish draft Budget scrutiny process to reflect the expanded fiscal powers devolved by the Scotland Act 2012.</p> <p>The Government notes that certainty to industry is important for planning and investment decisions. It is important to note that no announcement has been made about what UK rates will be charged after 2015, other than that the standard rate will not be lower than £80 per tonne until 2020 at least. The Scottish Government has already stated that the Scottish rates to be introduced from April 2015 will not be lower than the UK rates in force at that point. The Scottish Government appreciates the necessity to prevent 'waste tourism' and discussions will continue with the UK government on this matter.</p>

2.	<p>The Committee also asks the Government to provide greater clarity regarding the period to be covered when the rates are announced and whether there will be an escalator.</p> <p><b>Paragraph 22</b></p>	<p>Ministers have indicated that they will bring forward proposals on the rates of tax to apply in Scotland from April 2015 as part of the draft Budget process in respect of 2015-16. Once approved by Parliament, the rates will apply until a subsequent order is laid. In advance of each annual draft Budget process, consideration will be given to whether rates should be adjusted taking into account all relevant factors including tax rates applying south of the Border.</p>
<p><b>Waste Tourism</b></p>		
3.	<p>The Committee notes that the Government's scope to make substantial changes to the rates and structure of landfill tax in Scotland is limited by the implications for waste tourism. The Committee asks whether the Government has commissioned any research or conducted any analysis on the likely impact of any changes to the structure and rates of landfill tax in Scotland on waste moving between Scotland and England.</p> <p><b>Paragraph 29</b></p>	<p>The Government commissioned work from Zero Waste Scotland and from Eunomia Ltd to provide the evidence base for elements of the Financial Memorandum and the BRIA. A summary of this work can be found in the paper, '<i>Scotland Landfill Tax Bill 2012: An Economic Assessment</i>', which can be found on Zero Waste Scotland's website:  <a href="http://www.zerowastescotland.org.uk/LandfillTaxEconomicAssessment">http://www.zerowastescotland.org.uk/LandfillTaxEconomicAssessment</a>.  This study looked at changes to rates and the potential impact on 'waste tourism'.</p>

4.	<p>The Committee also invites the Government to provide details of what discussions have taken place with the UK Environment Agency on the implications of any changes to landfill tax on waste moving between Scotland and England.</p> <p><b>Paragraph 30</b></p>	<p>The Scottish Government has had no direct discussion with the UK Environment Agency on this matter.</p>
<p><b>Level of scrutiny</b></p>		
5.	<p>The Committee welcomes the introduction of the “provisional affirmative procedure” for the changing of tax rates for both Landfill Tax and LBTT where there is a need to make these changes with immediate effect.</p> <p>However, it is not clear why the Bill also provides for this procedure to be used when there is not a need for Ministers to act quickly. The Committee, therefore, invites the Government to explain why the affirmative procedure should not apply to an order changing the tax rates for both LBTT and Landfill Tax other than in cases where there is a need to introduce the tax changes with immediate effect.</p> <p><b>Paragraphs 34 and 35</b></p>	<p>The Scottish Government notes the Committee’s observation. The Scottish Government considers the use of provisional affirmative procedure to be appropriate to set the rates and bands of devolved taxes in all cases (after the first such setting) because it provides a balance between Parliamentary scrutiny and the requirement for government to effectively manage its revenues. These issues cannot be considered in isolation from the overall budget scrutiny process, which will change significantly from 2015-16 onwards to enable appropriate scrutiny by Parliament of the exercise of the expanded fiscal powers devolved by the Scotland Act 2012.</p> <p>The Scottish Government looks forward to imminent discussions with the Committee on the changes required to the Scottish draft Budget scrutiny process. These discussions will fully consider scrutiny of the setting of tax rates and bands.</p>

No.	Recommendation	Response
<b>Taxable disposals</b>		
6.	The Committee recommends that the introduction of any additional rates is subject to the affirmative procedure. <b>Paragraph 41</b>	The Cabinet Secretary for Finance, Employment and Sustainable Growth has written to the Delegated Powers and Law Reform Committee to advise that the Government proposes to bring forward an amendment at Stage 2 of the Bill to provide that the order-making power in section 13 (5) of the Bill to introduce additional rates will be subject to the provisional affirmative procedure.
<b>Exemptions</b>		
7.	The Committee recommends that any adjustment or removal of exemptions is subject to the affirmative procedure. <b>Paragraph 50</b>	The Cabinet Secretary for Finance, Employment and Sustainable Growth has written to the Delegated Powers and Law Reform Committee to advise that the Government proposes to bring forward an amendment at Stage 2 of the Bill to provide that the order-making power in section 11 (1) of the Bill to adjust or remove exemptions will be subject to the provisional affirmative procedure.

## Island communities

8. The Committee invites the Government to respond to the suggestion that there should be a lower rate of tax on island wastes for materials for which no viable recycling or recovery routes are available.

### **Paragraph 55**

Island landfill sites do not have to meet as stringent conditions as those in mainland Scotland in order to meet the European Landfill Directive requirements (as a result of a derogation applying to the Directive). Consequently landfill costs are already potentially cheaper than on the mainland.

An island landfill site may utilise up to 52 exemptions from the Waste Management (Scotland) Regulations 2011. If an exemption is registered, disposal to such a site would not be a taxable deposit and there would be no landfill tax liability. Other waste processing activities may also be licensed or permitted.

If island landfill sites were subject to a lower rate of tax, transport companies could back-haul waste from the mainland to the islands for financial gain. This would result in reduced landfilling capacity in the islands and an increase in the environmental impact on fragile island ecosystems.

Island landfill sites currently pay landfill tax at the same rate as the rest of the UK and waste activities in the islands are regulated in the same way. However the derogation noted above from some Landfill Directive requirements applies to island sites. The Government has no plans to change this position.

## Unauthorised disposals to landfill

9.	<p>The Committee asks the Government to clarify whether the resources which have been allocated to Revenue Scotland for compliance activity include additional resources for SEPA to identify and deal with illegal sites.</p> <p><b>Paragraph 68</b></p>	<p>Revenue Scotland's resources will be used to pursue appropriate care and management of the two devolved taxes. This includes undertaking compliance activity. On Landfill Tax, SEPA's expertise will be invaluable and Revenue Scotland expects to allocate some of the funding available for compliance activity to SEPA to support its work.</p> <p>Provisions within the SLfT Bill would, if enacted, allow for the imposition of a tax charge based on liability arising from illegal landfill. Identifying and dealing with illegal landfill sites is currently part of SEPA's current environmental activities, for which they receive grant funding, and in future will be part of their tax compliance activity.</p>
10.	<p>The Committee invites the Government to clarify whether any extra revenues raised as a result of the power to impose tax on illegal landfill sites might be used to assist SEPA in identifying illegal sites.</p> <p><b>Paragraph 69</b></p>	<p>Tax revenues raised from the imposition of Landfill Tax, including tax on disposals to illegal landfill sites, will be paid into the Scottish Consolidated Fund from which public sector activities, including those of SEPA, are funded. SEPA will receive funding in respect of tax administration functions it will carry out on behalf of Revenue Scotland. Funding will take account of a range of factors, including compliance activity.</p>

## Role of Revenue Scotland and SEPA

11.

The Committee recognises that Landfill Tax is not due to be implemented until April 2015 but is nevertheless concerned about the current lack of clarity regarding the respective roles of Revenue Scotland and SEPA and recommends that this be addressed as a matter of urgency.

The Committee intends to monitor and scrutinise the implementation and delivery of Landfill Tax and invites Revenue Scotland and SEPA to report to it both orally and in writing on a six-monthly basis.

The Committee supports the recommendation of the DPLRC in relation to the publication of the delegation of functions.

**Paragraphs 80-82**

The forthcoming Revenue Scotland and Tax Powers Bill will set out a clear statutory framework which provides for the delegation of some or all of Revenue Scotland's powers and functions to SEPA in relation to the collection and management of Scottish Landfill Tax, and we look forward to the Committee's views on these provisions in due course. Other aspects are operational decisions and are part of the ongoing planning and development for April 2015 delivery and will be taken forward in a timely fashion.

The Cabinet Secretary for Finance, Employment and Sustainable Growth has written to the Delegated Powers and Law Reform Committee accepting Committee's strong recommendation "that the Scottish Government improve the transparency and accountability of the delegation of functions from the Tax Authority to SEPA by requiring publication of any such delegation". The Scottish Government will reflect on how best to give effect to this in the forthcoming Revenue Scotland and Tax Powers Bill.



## Block grant adjustment

12.

The Committee is currently considering the block grant adjustment in relation to all financial powers arising from the Scotland Act and will submit its views to the Government.

The Committee invites the Government to provide a year-on-year breakdown of the estimated decline in landfill tax receipts between 2015 and 2025 and asks whether the possibility of recycling rates plateauing was considered during the forecasting exercise.

**Paragraphs 90-91**

The Scottish Government forecast a fall in Landfill Tax receipts are set out below. The list is indexed with 100 representing tax receipts in 2015. The table shows an 74% drop in receipts between 2015-16 to 2024-25.

Year	Index
<b>2015-16</b>	100
<b>2016-17</b>	90
<b>2017-18</b>	81
<b>2018-19</b>	73
<b>2019-20</b>	64
<b>2020-21</b>	56
<b>2021-22</b>	48
<b>2022-23</b>	40
<b>2023-24</b>	33
<b>2024-25</b>	26

This forecast has been produced internally by the Scottish Government and has not been independently verified. It assumes that Scotland reaches its Zero Waste targets and landfill will plateau post 2025. It also assumes that active waste disposal falls from 1.6m tonnes to 326,500 tonnes and that the volume of waste subject to the lower rate falls from 833,000 tonnes to 324,000 tonnes. Tax rates are assumed to remain as they are at present. No allowance has been made for receipts from taxing illegal landfilling at this stage.

<b>Landfill Communities Fund</b>		
13.	The Committee welcomes the retention of the existing landfill tax credit system, supports the 10% increase and invites the Government to confirm that this will result in a new cap of 7.48. <b>Paragraph 111</b>	The Scottish Government notes the Committee's response. The new cap will be one tenth more than the UK cap at the point of implementation in 2015 and revised so this proportion is maintained for three years thereafter. If the UK credit cap remains at 6.8% then this would mean a cap of 7.48% in Scotland.
14.	The Committee is supportive of the principle that those communities most affected by landfill sites should be the ones to benefit most from the fund. <b>Paragraph 112</b>	The Scottish Government welcomes the Committee's response and is working to ensure this principle is reflected in the future design of the fund.
15.	The Committee recommends that the subordinate legislation detailing the Fund's regulatory and administrative arrangements should be subject to the affirmative procedure. <b>Paragraph 113</b>	The Scottish Government notes the Committee's recommendation and will consider further whether to amend the Bill in this regard.
16.	The Committee invites the Government to provide it with regular updates of its progress with regard to the Scottish LCF. <b>Paragraph 114</b>	The Scottish Government is happy to provide regular updates on progress on establishing the Scottish LCF.
<b>Conclusion</b>		
17.	The Committee supports the general principles of the Bill and emphasises that it will seek to monitor closely the implementation and delivery of the Scottish Landfill Tax. <b>Paragraph 115</b>	The Scottish Government welcomes the Committee's report and has noted all its points in relation to the Landfill Tax (Scotland) Bill.

